

Erik A. Christiansen (USB 7372)
Hannah J. Ector (USB 17980)
PARSONS BEHLE & LATIMER
201 South Main Street, Suite 1800
Salt Lake City, Utah 84111
Telephone: (801) 532-1234
Facsimile: (801) 536-6111
EChristiansen@parsonsbehle.com
HEctor@parsonsbehle.com

John S. Worden (CA SBN 142943) (*Admitted Pro Hac Vice*)
Sarah E. Diamond (CA SBN 281162) (*Admitted Pro Hac Vice*)
VENABLE LLP
2049 Century Park East, Suite 2300
Los Angeles, CA 90067
Telephone: (310) 229-9900
Facsimile: (310) 229-9901
JSWorden@venable.com
SEDiamond@venable.com

*Attorneys for Plaintiffs Capana Swiss Advisors AG and
AmeriMark Automotive AG, and Third-Party Defendants
Shaen Bernhardt, Martin Fasser Heeg, and Stefan Kammerlander*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

CAPANA SWISS ADVISORS AG, a Swiss
corporation; AMERIMARK AUTOMOTIVE
AG, a Swiss corporation,

Plaintiffs,

v.

RYMARK, INC., a Utah corporation;
NICHOLAS THAYNE MARKOSIAN, an
individual; JOHN KIRKLAND, an individual;
and VICKY SMALL, an individual,

Defendants.

**DECLARATION OF SARAH E.
DIAMOND IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
LEAVE TO FILE SECOND
AMENDED COUNTERCLAIM AND
AMENDED THIRD-PARTY
COMPLAINT [DKT. NO. 180]**

Civil Case No. 2:23-cv-00467
Judge: Hon. Ted Stewart
Magistrate Judge: Hon. Cecilia M. Romero

DECLARATION OF SARAH E. DIAMOND

I, Sarah E. Diamond, declare as follows:

1. I am an attorney in the law firm of Venable, LLP, and I am admitted *pro hac vice* in this Court. I am among the counsel of record for Plaintiffs Capana Swiss Advisors, AG, and AmeriMark Automotive AG (collectively, “Plaintiffs”) in the above-referenced litigation. This declaration is submitted in support of Plaintiffs’ Opposition to Defendants’ Motion for Leave to File Second Amended Counterclaim and Amended Third-Party Complaint. I have personal knowledge of the facts set forth in this declaration. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the September 16, 2020 letter from Chad Pehrson to AmeriMark Group AG, Nicolai Colshorn, Miron Leshem, David A. Hesterman, and Ananda Capital Partners, Inc., bates stamped PL_0000000585-86, and marked as Exhibit 73 at the August 8, 2024 deposition of Defendant Nicholas Markosian.

3. Attached hereto as **Exhibit 2** is a true and correct copy of a November 8, 2016 email from Defendant Nicholas Markosian to Jen Markosian, bates stamped RYMARK2646-47.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a May 6, 2016 email from Defendant Nicholas Markosian to Daniel Gysi and Miron Leshem, bates stamped RYMARK001944-45.

5. Upon information and belief, Felix Kappeler resides in Switzerland and is a Swiss citizen.

6. Upon information and belief, Frank Hueser resides in Germany and is a German citizen.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 10th day of December, 2024.

/s/ Sarah Diamond
Sarah Diamond

CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2024, I filed the foregoing with the Clerk of Court using the Court's CM/ECF filing system and which sent electronic notification of the filing to counsel of record in this matter.

/s/ Hannah Ector
Hannah Ector